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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/639,677

08/13/2003

Fernando Cuervo

ALC 3414

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76614

7590

03/30/2009

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EXAMINER

SURVILLO, OLEG

ART UNIT

PAPER NUMBER

2442

MAIL DATE

DELIVERY MODE

03/30/2009

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

<p align="center">Advisory Action Before the Filing of an Appeal Brief</p>	Application No. 10/639,677	Applicant(s) CUERVO ET AL.	
	Examiner OLEG SURVILLO	Art Unit 2442	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 18 March 2009 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
 b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☒ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
 (a) ☒ They raise new issues that would require further consideration and/or search (see NOTE below);
 (b) ☐ They raise the issue of new matter (see NOTE below);
 (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
 (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: See Continuation Sheet. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
 5. ☐ Applicant's reply has overcome the following rejection(s): _____.
 6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
 7. ☒ For purposes of appeal, the proposed amendment(s): a) ☒ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
 The status of the claim(s) is (or will be) as follows:
 Claim(s) allowed: _____.
 Claim(s) objected to: _____.
 Claim(s) rejected: 1,2,6,8,9,11-13 and 17-20.
 Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
 9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
 10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☐ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: _____.
 12. ☐ Note the attached Information *Disclosure Statement*(s). (PTO/SB/08) Paper No(s). _____
 13. ☒ Other: See Continuation Sheet.

/Andrew Caldwell/
 Supervisory Patent Examiner, Art Unit 2442

Continuation of 3.(a) NOTE: As to proposed amendment to claims 1, 6, 9, 11, and 17-20, this amendment would change the scope of the invention and would necessitate further consideration. In particular, proposed amendments require more than just a cursory review by the examiner and do not place the application in condition for allowance, as briefly discussed below.

Continuation of 13. Other: Proposed amendment to replace "Policy Description Protocol" with "Policy Decision Point" in each of claims 1, 9, 19, and 20 has been fully considered and is sufficient. Therefore, if amendment was entered, the issue of having "Policy Description Protocol" not supported by the specification would have been resolved. Regarding the rejection of claims 1, 2, 6, 8, 9, 11-13, and 17-20 under 35 U.S.C. 112, first paragraph as failing to comply with the written description requirement, applicants failed to provide a clear support in the specification for each limitation of the claimed subject matter underlined at pages 6-7 of the last Office action. Therefore, the rejection is maintained.

Regarding the rejection of claims 1, 9, 19, and 20 under 35 U.S.C. 112, second paragraph, for being unclear as to which element of the claimed apparatus performs the functionality of "establishing services that utilize policy-enabled resources", applicants' proposed amendment has been fully considered and is sufficient. Therefore, if amendment was entered, the rejection pertaining to this issue would have been withdrawn. As to rejection of claims 1 and 9 for being unclear which of the claimed elements performs the policy management and which of the claimed elements performs the management of policy-enabled resources, such that management of each is "decoupled", no proposed amendment has been made to address this issue. Therefore, the rejection is maintained. Applicants are reminded that although the claims interpreted in light of the specification, limitations from the specification including drawings are not read into the claims. As to claim 6, applicants proposed to amend the claim to read "the second domain". However, no corresponding amendment has been made to read "the second PEP". Applicants are advised to adopt the examiner's suggestion at page 9 of the last OA. The rejection of claim 6 is maintained. Proposed amendment to claims 9, 11, 17, and 18 has been fully considered and is sufficient. Therefore, if amendment was entered, the rejection would have been withdrawn.

Regarding the rejection of claims 1 and 19 under 35 U.S.C. 101, applicants' proposed amendment has been fully considered. As to claim 1, applicants proposed amending the claim to recite "a first policy enforcement point (PEP) on a network element of the communications network" and submitted that "a network element of the communications network does qualify as a "physical part" of an apparatus because a network element is a tangible object". This argument is persuasive. Thus, if amendment was entered, the rejection of claim 1 would have been withdrawn. Applicants are advised to further specify what constitutes "ON a network element". In particular, applicants are suggested to amend the claim to recite "a first policy enforcement point (PEP) RESIDING ON a network element". As to claim 19, applicants are advised to introduce the corresponding limitation that would render the claim statutory under 35 U.S.C. 101. It is noted that amending the claim to recite "a first network resource controller (NRC) within a domain on the communications network", as proposed, is not sufficient to render the claim statutory. In particular, the limitation of "within a domain on the communications network" only specifies the boundary (within a domain) of where the NRC is either located at or configured to be in charge, discussed at par. [0017] of the original specification. It is not apparent whether the communications network is a part of the claimed apparatus for the purposes of establishing whether the apparatus, as claimed, contains at least one physical object. Therefore, the rejection is maintained. As to any arguments not specifically addressed, they are the same as those discussed above.